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LAW OFFICES

KOTEEN & NAFTALIN, LLP

1150 CONNECTICUT AVENUE  
WASHINGTON, D.C. 20036

DOCKET FILE COPY ORIGINAL

TELEPHONE  
(202) 467-5700  
TELECOPY  
(202) 467-5915

BERNARD KOTEEN\*  
ALAN Y. NAFTALIN  
ARTHUR B. GOODKIND  
GEORGE Y. WHEELER  
MARGOT SMILEY HUMPHREY  
PETER M. CONNOLLY  
CHARLES R. NAFTALIN  
GREGORY C. STAPLE  
R. EDWARD PRICE  
\* SENIOR COUNSEL

December 12, 1997

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20554

Re: CC Docket No. 97-213

Dear Ms. Salas:

Herewith transmitted, on behalf of United States Cellular Corporation ("USCC") are an original and six copies of its Comments in the above-referenced proceeding.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,



Peter M. Connolly

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proposed security rules for carriers, but considers that issue of secondary importance compared to the first two points.

**I. The FCC Should Delay The CALEA Compliance Deadline**

At present, telecommunications carriers face an October 25, 1998 CALEA implementation deadline after which they will be subject to \$10,000 a day fines if they fail to comply with the law's requirements. However, carriers do not now have access to commercially available equipment which will enable them to meet the law's requirements. Moreover, there is no interim standard in place pursuant to which such hardware and software can be developed.

Clearly and obviously, elementary fairness demands an extension of the October 25, 1998 deadline. USCC understands that there is a dispute between the FBI and other law enforcement agencies and telecommunications industry groups regarding the proper technical standard to be used to develop CALEA - compliant hardware and software. USCC does not have a position on that dispute. We would only point out that CALEA's original implementation deadline made sense only if a standard was in place by 1995. However, for whatever reason, no standard is yet in place.

Accordingly, rather than forcing telecommunications carriers into a posture of non-compliance with a law with which they cannot comply the Commission should use its powers under Section 107(c) of CALEA [42 U.S.C. § 1006(c)] to grant a reasonable two year extension of the compliance deadline.

**II. If The Commission Does Not Grant A Blanket Extension, It Must Interpret Section 109(b) of CALEA To Grant Individual Petitions By Carriers**

Section 109(b) of CALEA [47 U.S.C. § 1008(b)] provides that a telecommunications carrier may petition the FCC to determine whether its compliance with the "capability" requirements of CALEA for equipment deployed after January, 1995, is "reasonably achievable." As pointed out by CTIA, this provision is intended to be a safety valve to protect small carriers from potentially ruinous CALEA costs.

CTIA is entirely correct that CALEA compliance will not be "reasonably achievable" for any carrier until there is commercially available hardware and software which meets the applicable standard. And so, if the Commission is unwilling to grant one blanket extension, it should certainly grant many individual extensions.

Moreover, even after the necessary hardware and software do become available, the FCC should be willing to grant extensions and exemptions in appropriate circumstances. The "Section 109" factors which should be considered by the FCC are ably summarized in pages 12-23 of the CTIA's comments. We believe that the FCC should review such petitions with special care when they come from rural cellular carriers such as USCC, which must implement comparatively few law enforcement surveillance requests and for whom the costs of CALEA compliance will be disproportionately high.

This will be especially the case if CALEA's provision forbidding reimbursement for telecommunications equipment deployed after January, 1995 remains in place. The continuing absence of standards mean that the costs for essentially all equipment to be deployed to meet CALEA requirements will be non-reimbursable. This will have the unforeseen effect of requiring carriers to bear virtually the entire cost burden of a program for which it was intended that costs be reimbursed.

USCC, along with other cellular carriers, wishes to work in a cooperative spirit to help achieve legitimate law enforcement objectives. But, the relevant government agencies, including the FBI and the FCC, must also behave responsibly, by only requiring of such carriers what is reasonably achievable at reasonable cost.

At the present time, all telecommunications carriers, through no fault of theirs, are facing an impossible situation. They rightly expect rational corrective action by the FCC. Subsequent to the FCC's acting to delay the implementation date, and to the promulgation of final standards by the FBI, USCC will work with other carriers to arrive at a fair and balanced approach to CALEA implementation on a timetable that makes sense.

#### Conclusion

However, for the foregoing reasons and those given by CTIA, it is urgently necessary that the FCC delay the CALEA implementation date by two years. Failing that, the FCC must give a sympathetic hearing to individual petitions which demonstrate that CALEA compliance is not now "reasonably achievable."

Respectfully submitted,

**UNITED STATES CELLULAR CORPORATION**

By: 

Peter M. Connolly  
Koteen & Naftalin  
1150 Connecticut Ave., N.W.  
Washington, D.C. 20036

Its Attorneys

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